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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,882	03/27/2001	Harry A. Reimer	S01.010	2429
22927	7590	12/01/2005		
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			EXAMINER EPSHTEYN, ALEXANDER	
			ART UNIT 3713	PAPER NUMBER

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/818,882	<b>Applicant(s)</b> REIMER, HARRY A.	
	<b>Examiner</b> Alex Epshteyn	<b>Art Unit</b> 3713	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 67-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 67 - 78 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a reconfiguration rule to be applied to the player is not indicated to the player, does not reasonably provide enablement for a reconfiguration rule to be applied during the game move that is indicated to the player. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention commensurate in scope with these claims. The examiner has read the specification paragraphs on page 2 and 3 and in all embodiments of the present invention and it is clear to the examiner that the specification precludes that at least one of the reconfiguration rules is **not** indicated to the player during at least a portion of the game play. In the amended claims of the present application, it is suggested that both the first game rule and the second game rule are indicating to the player, thus the present claims suggest to the examiner that all reconfiguration rules are indicated to the player. It is unclear where in the specification is the enablement for this instance of the invention. It is requested that Applicant provide guidance in this matter.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 67, 76 – 78, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetris Attack, in view of Uproar, and further in view of Tile Fall (Tile Fall admamdawes.com). These claims are substantially similar to the previously filed claims 52 – 66 except for a shift on invention in indicating to the player the reconfiguration rules. Tetris Attack also indicates to the player the reconfiguration rules as the player knows that pieces will either clear from the bottom of the playing board or fall from the top of the playing board.

The amended claims also describe a second game rule to be different from the first game rule in showing how the remaining game icons are to be reconfigured within the game boundary. Tile Fall, a game released on November 5, 2000, teaches of a game where the player attempts to remove a numbered of colored icons from a game boundary. Icons are removed from the game by a player by indicating to remove icons of the same color that are touching each other. As icons or groups of icons are removed, similar to Tetris Attack, the remaining icons fall. The remaining icons are then able to be reconfigured by merging same colored icons into one another, thus creating another rule, different from the first rule that indicates how removal of game icons would

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cause reconfiguration of the other game icons. It would have been obvious to one skilled in the art at the time the invention was made to have modified the teachings of Tetris Attack in view of Uproar and incorporate the teachings of Tile Fall. It is known to one of ordinary skill in the art that players are generally more inclined to play games with more features since it adds to increased entertainment value of the game. One of ordinary skill in the art would therefore be inclined to incorporate the teachings of Tile Fall since it would increase the attraction for players to play the game.

Further reasons why Tetris Attack in view of Uproar finds the claimed invention as obvious has been previously stated in the Office action of 4-21-2004 and is copied herein.

Claims 67 – 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetris Attack.

Regarding claims 67, 76 - 78 Tetris Attack discloses a method for facilitating game play wherein a game board is displayed to a player that has a plurality of game icons (Tetris Attack, How to Play from tetrisattack.net). The player can make a series of game moves (Tetris Attack, How to Play from tetrisattack.net). The player can input moves (Tetris Attack, How to Play from tetrisattack.net) and if at least three icons are lined up in the predetermined manner the game will remove at least one game icon from the game board (Tetris Attack, How to Play from tetrisattack.net). It would be obvious to a skilled artisan to use other restrictions in regulating how pieces are removed, as such restrictions are notoriously well known in the art. The manner in which the designer chooses to instate restrictions on removing pieces is a design choice made obvious by

the state of the art. Motivation in using one rule over the other depends on a specific desire and need for the designer as to how they wish their game to flow. The game board can be reconfigured according to a plurality of reconfiguration game rules (Tetris Attack, How to Play from tetrisattack.net) wherein the pieces will rise from the bottom as well as fall from the top. The reconfiguration that is to occur in the game is not indicated to the player during the at least a portion of the game as the player does not initially see on the gaming screen that the blocks will fall or know the predetermined time in which they will rise. Regarding claim 19, the method of Tetris Attack is for the Super NES therefore when incorporated in the game system; it would have a processor as well as a storage device for storing the operation for execution. Regarding claim 22, it would be obvious to one of ordinary skill in the art that to properly execute the method on the Super NES as disclosed, it would need to be stored on a medium that embodied the instructions for the game.

Regarding claim 68, each of the game icons are associated with icon types and the removal is based upon the icon type (Tetris Attack, How to Play from tetrisattack.net).

Regarding claim 69, a score is associated with the game (Tetris Attack Manual). It would be obvious to the game and one of ordinary skill in the art that the score would be based on the number of neighboring icons removed, as it would be known that removing a greater number would require more skill and thus would be awarded more points.

Regarding claim 70, the system determines which reconfiguration rule is applied to reconfigure the game board (Tetris Attack, How to Play from tetrisattack.net). The reconfiguration is further determined by retrieving pre-stored indication of the rules (i.e. if the blocks are falling or if an indicator is set to indicate the blocks should rise).

Claims 71 – 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tetris Attack in view of Uproar. What Tetris Attack discloses, teaches and/or suggests has been discussed above and is incorporated herein. Tetris Attack is a game of skill and discloses awarding the player points based upon their performance. As discussed above, it is notoriously well known in the art that any game can be embodied in an arcade format wherein players could be charged money in exchange for game play and the implementation of Tetris Attack into this format would be obvious to one of ordinary skill in the art. Further, in application of Tetris Attack to the arcade format, it is also notoriously well known that arcades often award players prizes in the alternate currency form of free games if their performance in the game results in attaining a certain threshold.

Further, Uproar.com discloses a gaming system wherein a plurality of games of skill that were popular as other forms are hosted in an online environment. Uproar allows players to set up accounts and receive points (alternate currency) for their performance (Uproar WebPage). Uproar also discloses that cash prizes are available (Uproar Handout). It would have been obvious to one of ordinary skill in the art to incorporate prizes into the disclosure of Tetris Attack in both the forms as disclosed above. By incorporating this methodology into the game of Tetris Attack wherein points or free games would be awarded, players would be more likely to continue to play the

game, thus generating a revenue for the host (in the form of monetary or advertisement). Therefore, one of ordinary skill in the art would be motivated to incorporate prizes into the game disclosure of Tetris Attack in order to provide a more rewarding experience for the player.

### ***Response to Arguments***

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Epshteyn whose telephone number is 571-272-5561. The examiner can normally be reached on M-F 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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SUPERVISORY PATENT EXAMINER  
TC3700